

TENTATIVE RULINGS for CIVIL LAW and MOTION

March 11, 2010

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fourteen: (530) 406-6848

TENTATIVE RULING

Case: **Barr v. City of Woodland, et al.**

Case No. CV CV 09-3070

Hearing Date: **March 11, 2010** **Department Fourteen** **9:00 a.m.**

Defendants' demurrer to the first, second, third, fourth, and eighth causes of action is **SUSTAINED WITHOUT LEAVE TO AMEND**. (Gov. Code, §§ 905, 911.2 *et seq.*, 945.3, 945.4, & 946.6; *Santee v. Santa Clara County Office of Education* (1990) 220 Cal.App.3d 702, 713; *McMartin v. County of Los Angeles* (1988) 202 Cal.App.3d 848, 859–860.) Plaintiff's claims are barred as a result of her failure to timely present her claim and her application to present a late claim to Defendant under the California Tort Claims Act. Compliance with the claims presentation procedures is a jurisdictional prerequisite to the maintenance of a cause of action for damages against a public agency. (*Alliance Financial v. City and County of San Francisco* (1998) 64 Cal.App.4th 635, 640.)

Defendant's demurrer to the fifth, sixth and seventh causes of action is **SUSTAINED WITH LEAVE TO AMEND**. Plaintiff failed to state facts sufficient to constitute the alleged causes of action against Defendant. (42 U.S.C. §§ 1982, 1983 & 1985; *Arnold v. Tiffney* (9th Cir. 1973) 487 F.2d 216, 217-218; *Monell v. Department of Social Services of City of New York* (1978) 436 U.S. 658, 690-691)

Plaintiff shall file her amended complaint **by March 26, 2010.**

If no hearing is requested, this tentative ruling is effective immediately. Defendant shall serve a copy of the tentative ruling on Plaintiff. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.

TENTATIVE RULING

Case: **HSBC Bank v. Tran**
 Case No. CV UD 10-317

Hearing Date: **March 11, 2010** **Department Fourteen** **9:00 a.m.**

Defendant's motion to strike is **DENIED**. Defendant did not file a proof of service showing that he served a copy of his motion to strike on the plaintiff. If the defendant can establish that he served the plaintiff with a copy of his motion to strike, the Court is inclined to grant the defendant's motion. (Code Civ. Proc., § 1166, subd. (a).(1).)

Defendant may request a hearing to establish proper service of his motion. Defendant must provide the plaintiff with notice of a request for hearing.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.